

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 3062 of 2005

Between:

IRISH FARM HOUSE AND RESORTS, rep. by its V. Sanjeeva Reddy,
S/o. V. Raji Reddy, R/o. Darmaram Village, Keesara Mandal,
R.R.District.

..... PETITIONER

AND

- 1 The Assistant Divisional Engineer, Opeation, AP Central Power Distribution Co. Ltd., Sainikpuri, Hyderabad.
- 2 The Divisional Engineer, Assessments, AP Central Power Distribution Co. Ltd., Urdu Hall Lane, Himayathnagar, Hydrabad.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue declaring the impugned notice of the 1st respondent vide LR. No. ADE/OP/Sainkpuri/F. NO. 3497/05 dt. 11.02.2005, as illegal, arbitrary against the principles of natural justice, contrary to the Provisions Under section 126 of Electricity Act; 2003 and consequently set aside the same and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice.

Counsel for the Petitioner:MR.PRAKASH BUDDARAPU

Counsel for the Respondents:Mr. V.Ajay Kumar, Standing COounsel

The Court, at the stage of admission, made the following :

ORDER:

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Petitioner is issued an order of provisional assessment, dated 11.02.2005. It was stated that he has drawn the power from the LT over head line unauthorisedly, and it was used for maintenance of a guest house. A sum of Rs.1,07,275/-, was provisionally assessed as the cost of pilfered power. Petitioner was required to pay the same with a threat that, in default, the supply through other service connections shall be disrupted. Petitioner challenges the same.

Heard the learned counsel for the petitioner and the learned standing counsel for respondents.

Petitioner places reliance upon the Judgment of this Court in W.A.Nos.452 and 477 of 2004, dated 11.03.2004, as well as Section 126 of the Electricity Act, 2003 (for short 'the Act'). It is true that following the Judgment, referred to above, as well as in view of Section 126 of the Act, this Court granted the reliefs in number of cases, directing that no demand can be made on the strength of an order of provisional assessment. Those, however, are cases where the consumers were provided with power supply through service connections, and the dispute related to the nature of power supply or consumption. In the instant case, the allegation against the petitioner is that he has drawn the power stealthily, without there being any service connection. Therefore, his case cannot be compared to those, where the allegations as to the pilferage, even while there existed a regular power supply.

The respondents are under obligation to issue a show cause notice to the petitioner, pointing out the nature of irregularities said to have been committed by the petitioner. It is only on consideration of the same, that the final liability of the petitioner needs to

be determined. This Court is of the view that the further proceedings against the petitioner be stayed on payment of certain amount.

Hence, the writ petition is disposed of directing that the respondents shall not take any further steps, in pursuance of the impugned order, dated 11.02.2005, against other connections, in case, the petitioner pays a sum of Rs.35,000/-, within two weeks from today. The actual liability of the petitioner towards the said proceedings shall be determined only in the order of final assessment. The pendency of such proceedings shall not prevent the petitioner from making an application for extension of supply to the guest house, and the respondents shall consider the same without prejudice to their right to determine the liability of the petitioner under the impugned proceedings. No order as to costs.

L.NARASIMHA REDDY, J

Dated : 21.02.2005

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To

1 The Assistant Divisional Engineer, Opeation, AP Central Power Distribution Co. Ltd., Sainikpuri, Hyderabad.

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